

### **REMARKS**

Applicants thank the Examiner for courtesies extended during a telephonic interview with John Bianco on June 21, 2005. In reply to the outstanding Restriction Requirement mailed March 25, 2005, and to the Notice of Incomplete Reply mailed May 2, 2005, Applicants hereby elect Group I, claims 47-91, drawn to an apparatus for treating one or more samples with acoustic energy.

The Restriction Requirement additionally contained a requirement to elect a particular species for search purposes. However, during the telephonic conversation with Mr. Bianco, the Examiner agreed to reformulate the previous species restriction. To briefly reiterate the substance of the discussion, the Examiner agreed that claims 48-62 are directed to further features of the system of claim 47, and that such features could be examined simultaneously without undue burden or the need to elect a particular species for search purposes. Additionally, the Examiner agreed that claims 66-71 are directed to various samples that can be processed using any of the apparatuses of the invention, including the apparatus of claim 47. Accordingly, the Examiner agreed that claims 66-71 could be examined simultaneously with claims 47-62 without undue burden or the need to elect a particular species for search purposes. Thus, claims 47-62 and 66-71 are elected with Applicants' election of the invention of Group I.

The Examiner agreed that the remaining claims of Group I categorized into four species, and required that Applicants elect one of the four species for search purposes only. The remaining claims are categorized as follows: claims 63-65; claims 72-79; claims 80-90; and claim 91. Claims 63-65 are directed to apparatuses that include a positioning system. Claims 72-79 are directed to apparatuses for mixing one or more samples. Claims 80-90 are directed to apparatuses for treatments other than mixing (e.g., fluidization, heating, disrupting) of one or more samples. Claim 91 is directed to apparatuses including a system for transferring a reaction vessel. Applicants elect with traverse, for search purposes only, claims 72-79, directed to an apparatus for mixing one or more samples.

In light of Applicants' election, claims 47-62, 66-71, and 72-79 will remain under consideration. Claims 63-65 and 80-140 are hereby withdrawn from prosecution. Applicants reserve the right to re-present the withdrawn claims should a suitable generic claim be allowed.

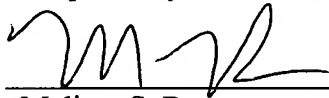
### **CONCLUSION**

Claims 47-140 are pending in the present application. Applicants elect claims 47-62, 66-71, and 72-79. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Should an extension of time be required, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this submission be charged to **Deposit Account No. 18-1945, under Order No. CVRS-P04-001.**

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Respectfully Submitted,



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